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Attorneys for Plaintiffs

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH – CENTRAL DIVISION**

<p>MICHAEL L. LABERTEW, attorney in fact for, and on behalf of, P.B., and as Co-Trustee of THE P.B. LIVING TRUST,</p> <p style="text-align: center;">Plaintiffs,</p> <p>vs.</p> <p>WINRED, INC.</p> <p style="text-align: center;">Defendant.</p>	<p style="text-align: center;">VERIFIED COMPLAINT & JURY DEMAND</p> <p>Civil No. 2:21-cv-00555-TC</p> <p>Judge Tena Campbell</p>
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COME NOW Plaintiffs; Michael L. Labertew, as the attorney in fact for, and on behalf of, P.B., and as Trustee of the P.B. Revocable Living Trust; and by and through their undersigned counsel, and hereby complain of Defendant, WinRed, Inc. (“WinRed”), and for causes of action alleges as follows:

PARTIES

1. Plaintiff P.B. (“Mrs. B”) is a citizen of the State of Utah.
2. Due to Mrs. B.'s severe memory loss, poor executive functioning skills, advanced

dementia, and need for home care, Michael L. Labertew has been appointed to act under and pursuant to a general power of attorney for and on behalf of Mrs. B, and is empowered to bring this action on behalf of Mrs. B, in his name. Mr. Labertew is a citizen of the State of Utah.

3. Plaintiff the P. B. Revocable Living Trust (“the Living Trust”) is a revocable trust, whose settlor and beneficiaries are citizens of the State of Utah, that is established to protect and preserve the assets, income and property of Mrs. B, her descendants, heirs, and beneficiaries. Michael L. Labertew is a Co-Trustee and Successor Trustee of the Living Trust and has authority to bring this action on behalf of the Living Trust.

4. Defendant WinRed is a for-profit fundraising platform, incorporated in the State of Delaware, with its principal place of business in the State of Virginia, and which—at all times material hereto—conducted business within the State of Utah by soliciting contributions from citizens and residents of the Utah. WinRed purposefully availed itself of the laws and jurisdiction of the State of Utah by soliciting in the state, and it committed tortious acts and other violations of law within the state as herein described.

JURISDICTION

5. This Court has federal question jurisdiction over this action pursuant to 28 U.S.C. § 1331, 15 U.S.C. § 1643, 15 U.S.C. § 1644(a), 52 U.S.C. § 30143(a). In the alternative, and should federal question not exist by virtue of these statutes, the Court has diversity jurisdiction over this action pursuant to 28 U.S.C. § 1332 (a) and (c) because the amount in controversy exceeds \$75,000.00 and there is complete diversity between the parties.

6. Venue is proper in this Court pursuant to 18 U.S.C. § 1965 and 28 U.S.C. § 1391 because Defendant transacted its affairs with Plaintiffs in this district and a substantial part of the events giving rise to this action occurred in this district.

GENERAL ALLEGATIONS

7. Plaintiff P.B. (“Mrs. B”) is a 69-year-old woman who lives in Park City, Utah. Due to Mrs. B's severe memory loss, poor executive functioning skills, advanced dementia, and need for home care, Michael L. Labertew has been appointed to act under and pursuant to a general power of attorney for and on behalf of Mrs. B.

8. According to Mrs. B's physician, Mrs. B suffers from severe dementia that is accompanied with poor memory, lack of problem-solving skills, and poor executive functioning, all of which have been in decline for many years now. Since at least 2018, Mrs. B has been in need of and has been under home care assistance, seven days each week for 24 hours each day.

9. Mrs. B is, and at all times material hereto has been, a vulnerable adult as defined by Utah Code § 62A-3-301 (30).

10. Mrs. B has conducted various personal activities through the Living Trust. Defendant dealt with Mrs. B on behalf of the Living Trust via telephonic, email, internet and other written or electronic communications.

11. It was, or should have been, reasonably apparent to Defendant—at all times material hereto—that Mrs. B was unable to make sound financial decisions and that she suffered from poor memory, lack of problem-solving skills, and poor functioning abilities.

12. Defendant conducts telephonic, internet and telemarketing solicitations, as part of its political action business activities, in which it solicits contributions from those it contacts throughout the United States, including within the State of Utah.

13. Defendant has, for a number of years, preyed upon senior citizens and vulnerable adults, including Mrs. B, through persistent and repeated email, internet, electronic, text and other telephonic solicitations and telemarketing campaigns.

14. Defendant's electronic solicitations and telemarketing campaigns have been the subject of investigations, legal actions, subpoenas and inquiries issued by Attorneys General from across the nation because of the high risk of fraud, misrepresentation, abuse, and exploitation, particularly for older and vulnerable adults like Mrs. B.

15. Defendant's electronic solicitations and telemarketing campaigns have been the subject of various civil actions and proceedings in which Defendant has been alleged to have committed fraud, misrepresented material facts, taken advantage of, abused, and exploited older or vulnerable adults, or otherwise abused access to credit card accounts of contributors to Defendant's political action committee.

16. Under the guise of personal concern for the political affairs of the United States and the well-being and welfare of their target, Defendant's employees and representatives relentlessly contact their lists of potential contributors, including Mrs. B, building a rapport with vulnerable and lonely individuals and leveraging that repeated contact to induce the target, including Mrs. B, to contribute funds to Defendant's political action committee.

17. The types of electronic, telephone and telemarketing approaches employed by Defendant target and prey upon the elderly and vulnerable, including Mrs. B, by offering a false sense of companionship, friendship and trust between Defendant's employees and representatives and the target.

18. Defendant worked to reinforce this false sense of companionship, including with Mrs. B, all while siphoning money out of the targets' credit card accounts.

19. As part of its relentless campaign of abuse and exploitation, Defendant utilizes, and has employed, a deceptive recurring charge to targets' credit card accounts, by which Defendant automatically charges repeated contributions from those who agreed to make a single

contribution. The use of this recurring charge feature requires targets and contributors to opt-out or edit the feature in order to avoid the recurring charges and contributions to Defendant's political action committee.

20. Currently, Defendant is the target of investigations and inquiries from the Attorneys General of Connecticut, Maryland, Minnesota, and New York for activities similar to those described herein.

21. Beginning on or about, if not earlier than, August 13, 2019 Defendant commenced preying upon the solitude, dementia, vulnerability, and personal dignity of Mrs. B by contacting her as part of Defendant's electronic solicitations and telemarketing campaign.

22. Mrs. B was frequently contacted by Defendant, hounded by its employees and representatives under the guise of "friendship" or "concern for the welfare and political stability of the United States" and then induced to contribute substantial sums of money to Defendant's political action committee.

23. As an example, Defendant induced Mrs. B to "contribute" not less than \$19,129.25 in less than 4 months to Defendant's political action committee.

24. Through the use of its false, misleading, deceptive and disguised practices—including, but not limited to the recurring charge feature described above—Defendant obtained contributions, fees and upsell charges from Mrs. B and the Living Trust on at least—if not more than—the following dates, in the following amounts:

<u>Date</u>	<u>Amount</u>	<u>Contributions</u>
05/14/21	\$ 25.00	Ted Cruz
05/16/21	\$ 25.00	Marco Rubio for US
05/16/21	\$ 25.00	Marco Rubio for US
05/16/21	\$ 25.00	Marco Rubio for US
05/16/21	\$ 50.00	Marco Rubio for US
05/16/21	\$ 50.00	Marco Rubio for US

05/20/21	\$ 100.00	Friends of Mik
05/20/21	\$ 100.00	Friends of Mik
05/20/21	\$ 75.00	Ted Cruz
05/20/21	\$ 75.00	Bill Cassidy for
05/22/21	\$ 20.00	Jake Ellze
05/22/21	\$ 25.00	Jake Ellze
05/24/21	\$ 25.00	Monica for
05/26/21	\$ 50.00	Tom Cotton
05/26/21	\$ 75.00	Thom Tillis
05/26/21	\$ 50.00	Ted Cruz
05/26/21	\$ 75.00	Team Graham
05/26/21	\$ 50.00	Romney for Utah
05/26/21	\$ 25.00	Risch for US
05/26/21	\$ 50.00	Rick Scott
05/26/21	\$ 50.00	Rand Paul
05/26/21	\$ 50.00	Mitch McConnell
05/26/21	\$ 100.00	McCarthy for Congress
05/26/21	\$ 100.00	McCarthy for Congress
05/26/21	\$ 75.00	McCarthy for Congress
05/26/21	\$ 75.00	McCarthy for Congress
05/26/21	\$ 40.00	McCarthy for Congress
05/26/21	\$ 30.00	McCarthy for Congress
05/26/21	\$ 25.00	McCarthy for Congress
05/26/21	\$ 25.00	McCarthy for Congress
05/26/21	\$ 25.00	McCarthy for Congress
05/26/21	\$ 25.00	McCarthy for Congress
05/26/21	\$ 25.00	McCarthy for Congress
05/26/21	\$ 25.00	McCarthy for Congress
05/26/21	\$ 50.00	Marco Rubio for US
05/26/21	\$ 25.00	Lisa Murkowski
05/26/21	\$ 75.00	Josh Hawley for US
05/26/21	\$ 50.00	John Kennedy for US
05/26/21	\$ 50.00	John Cornyn
05/26/21	\$ 25.00	Grassley Committee
05/26/21	\$ 250.00	Friends of Mik
05/26/21	\$ 50.00	Friends of Mik
05/26/21	\$ 50.00	Friends of Joh
05/26/21	\$ 25.00	Diana for
05/26/21	\$ 50.00	Cindy Hyde
05/26/21	\$ 50.00	Bill Cassidy for
05/26/21	\$ 50.00	Alaskans for D
05/28/21	\$ 10.00	Mark Mcloskey
05/28/21	\$ 10.00	Mark Mcloskey
05/30/21	\$ 100.00	Team Scalise
05/30/21	\$ 100.00	Team Scalise
05/30/21	\$ 100.00	Team Scalise
05/30/21	\$ 100.00	Team Scalise

05/30/21	\$ 50.00	Anna Pauli
05/31/21	\$ 50.00	Anna Pauli
05/31/21	\$ 25.00	Marco Rubio for US
05/31/21	\$ 25.00	Marco Rubio for US
05/31/21	\$ 25.00	Marco Rubio for US
05/31/21	\$ 250.00	Friends of Mik
06/01/21	\$ 60.00	Marco Rubio for
06/01/21	\$ 50.00	Marco Rubio for
06/01/21	\$ 50.00	Marco Rubio for
06/01/21	\$ 50.00	Marco Rubio for
06/01/21	\$ 50.00	Marco Rubio for
06/01/21	\$ 50.00	Marco Rubio for
06/01/21	\$ 50.00	Marco Rubio for
06/01/21	\$ 50.00	Marco Rubio for
06/01/21	\$ 50.00	Marco Rubio for
06/01/21	\$ 50.00	Marco Rubio for
06/01/21	\$ 50.00	Marco Rubio for
06/01/21	\$ 50.00	Marco Rubio for
06/01/21	\$ 40.00	Marco Rubio for
06/01/21	\$ 40.00	Marco Rubio for
06/01/21	\$ 30.00	Marco Rubio for
06/03/21	\$ 100.00	E Donation
06/03/21	\$ 100.00	Friends of Mik
06/03/21	\$ 25.00	Steve Daines
06/03/21	\$ 25.00	Cramer for Sen
06/03/21	\$ 75.00	Friends of Mik
06/03/21	\$ 50.00	John Kennedy for
06/03/21	\$ 50.00	Bill Cassidy for
06/03/21	\$ 50.00	Rick Scott for
06/03/21	\$ 75.00	Mitch McConnell
06/03/21	\$ 75.00	Romney for Utah
06/03/21	\$ 50.00	Ron Johnson for
06/03/21	\$ 75.00	John Cornyn
06/03/21	\$ 60.00	Risch for US
06/03/21	\$ 75.00	Tim Scott for
06/03/21	\$ 50.00	Josh Hawley for
06/03/21	\$ 50.00	Marco Rubio for US
06/03/21	\$ 50.00	Ted Cruz
06/03/21	\$ 50.00	Deb Fisher for
06/03/21	\$ 50.00	Mike Crapo
06/03/21	\$ 50.00	Tom Cotton 4 Senate
06/03/21	\$ 100.00	Monica for
06/05/21	\$ 50.00	Marco Rubio for US
06/05/21	\$ 80.00	Marco Rubio for US
06/05/21	\$ 40.00	Marco Rubio for US

06/08/21	\$ 25.00	John Cornyn
06/08/21	\$ 50.00	NRSC
06/08/21	\$ 50.00	Team Graham
06/08/21	\$ 50.00	Josh Hawley for
06/08/21	\$ 50.00	Tim Scott for
06/08/21	\$ 50.00	Tom Cotton 4 Senate
06/08/21	\$ 50.00	Friends of Mik
06/08/21	\$ 50.00	Ted Cruz
06/08/21	\$ 50.00	Rand Paul
06/08/21	\$ 50.00	Marco Rubio for US
06/08/21	\$ 50.00	Friends of Roy
06/08/21	\$ 50.00	John Kennedy for
06/08/21	\$ 80.00	Mitch McConnell
06/08/21	\$ 90.00	Mitch McConnell
06/08/21	\$ 100.00	Monica for
06/08/21	\$ 110.00	Mitch McConnell
06/08/21	\$ 110.00	Mitch McConnell
06/08/21	\$ 140.00	Mitch McConnell
06/08/21	\$ 150.00	Mitch McConnell
06/08/21	\$ 150.00	Mitch McConnell
06/09/21	\$ 50.00	Ted Cruz
06/09/21	\$ 50.00	Team Graham
06/09/21	\$ 50.00	Romney for Utah
06/09/21	\$ 50.00	Rick Scott
06/09/21	\$ 25.00	Mike Crapo
06/09/21	\$ 50.00	NRSC
06/09/21	\$ 50.00	Mitch McConnell
06/09/21	\$ 50.00	Marco Rubio for
06/09/21	\$ 75.00	John Kennedy for US
06/09/21	\$ 50.00	John Cornyn
06/09/21	\$ 50.00	Friends of Roy
06/09/21	\$ 100.00	Friends of Mik
06/09/21	\$ 75.00	Friends of Mik
06/09/21	\$ 50.00	Capito for Wes
06/09/21	\$ 50.00	Bill Cassidy for
06/11/21	\$ 51.00	NRSC
06/11/21	\$ 5.00	NRSC
06/11/21	\$ 25.00	Todd Young
06/11/21	\$ 25.00	Steve Daines
06/11/21	\$ 25.00	Kansans for
06/11/21	\$ 25.00	Rick Soctt for
06/11/21	\$ 50.00	Josh Hawley for
06/11/21	\$ 75.00	Team Graham
06/11/21	\$ 75.00	Cornyn Maj
06/11/21	\$ 75.00	John Kennedy for
06/11/21	\$ 50.00	Rand Paul

06/11/21	\$ 25.00	Romney for Utah
06/11/21	\$ 50.00	Blackburn Tenn
06/11/21	\$ 75.00	Friends of Mik
06/11/21	\$ 50.00	Sullivan for
06/13/21	\$ 50.00	Tom Cotton 4 Senate
06/13/21	\$ 30.00	Tim Scott for
06/13/21	\$ 25.00	Tim Scott for
06/13/21	\$ 20.00	Tim Scott for
06/13/21	\$ 50.00	Ted Cruz
06/13/21	\$ 50.00	Team Graham
06/13/21	\$ 50.00	Romney for Utah
06/13/21	\$ 5.00	Processing Fee
06/13/21	\$ 50.00	Mitch McConnell
06/13/21	\$ 50.00	John Kennedy for US
06/13/21	\$ 50.00	John Cornyn
06/13/21	\$ 50.00	Bill Cassidy for
06/15/21	\$ 100.00	Upsell Charges
06/15/21	\$ 50.00	Upsell Charges
06/15/21	\$ 50.00	Upsell Charges
06/15/21	\$ 50.00	Upsell Charges
06/15/21	\$ 50.00	Upsell Charges
06/15/21	\$ 50.00	Upsell Charges
06/15/21	\$ 50.00	Upsell Charges
06/15/21	\$ 50.00	Upsell Charges
06/15/21	\$ 25.00	Upsell Charges
06/15/21	\$ 25.00	Upsell Charges
06/15/21	\$ 25.00	Upsell Charges
06/15/21	\$ 25.00	Upsell Charges
06/15/21	\$ 5.00	Upsell Charges
06/15/21	\$ 100.00	Team Graham
06/15/21	\$ 150.00	Marco Rubio for
06/15/21	\$ 120.00	Marco Rubio for
06/15/21	\$ 100.00	Marco Rubio for
06/15/21	\$ 100.00	Marco Rubio for
06/15/21	\$ 100.00	Marco Rubio for
06/15/21	\$ 100.00	Marco Rubio for
06/15/21	\$ 90.00	Marco Rubio for
06/15/21	\$ 80.00	Marco Rubio for
06/15/21	\$ 50.00	Marco Rubio for
06/15/21	\$ 50.00	Marco Rubio for
06/15/21	\$ 50.00	Marco Rubio for
06/15/21	\$ 50.00	Marco Rubio for
06/19/21	\$ 40.00	Marco Rubio for
06/19/21	\$ 25.00	Marco Rubio for
06/19/21	\$ 20.00	Marco Rubio for
06/19/21	\$ 12.00	Marco Rubio for

07/09/21	\$ 50.00	Gibbons for
07/13/21	\$ 40.00	Tim Scott for
07/13/21	\$ 30.00	Tim Scott for
07/13/21	\$ 25.00	Tim Scott for
07/13/21	\$ 7.00	Tim Scott for
07/13/21	\$ 50.00	Mike Pompeo
07/13/21	\$ 50.00	Mike Pompeo
07/13/21	\$ 50.00	Mike Pompeo
07/13/21	\$ 50.00	Mike Pompeo
07/13/21	\$ 50.00	Mike Pompeo
07/13/21	\$ 50.00	Mike Pompeo
07/13/21	\$ 50.00	Mike Pompeo
07/13/21	\$ 50.00	Mike Pompeo
07/13/21	\$ 30.00	Mike Pompeo
07/13/21	\$ 25.00	Mike Pompeo
07/13/21	\$ 25.00	Mike Pompeo
07/13/21	\$ 25.00	Mike Pompeo
07/13/21	\$ 25.00	Mike Pompeo
07/13/21	\$ 25.00	Mike Pompeo
07/13/21	\$ 25.00	Mike Pompeo
07/13/21	\$ 25.00	Mike Pompeo
07/15/21	\$ 50.00	Mike Pompeo
07/19/21	\$ 100.00	GOP.com
07/19/21	\$ 100.00	GOP.com
07/19/21	\$ 100.00	GOP.com
07/19/21	\$ 50.00	GOP.com
07/19/21	\$ 5.00	GOP.com
07/19/21	\$ 50.00	Tom Cotton 4 Senate
07/19/21	\$ 35.00	Tim Scott for
07/19/21	\$ 30.00	Tim Scott for
07/19/21	\$ 20.00	Tim Scott for
07/19/21	\$ 20.00	Tim Scott for
07/19/21	\$ 50.00	Ted Cruz
07/19/21	\$ 50.00	Team Graham
07/19/21	\$ 50.00	Risch for U.S.
07/19/21	\$ 50.00	Rick Scott for
07/19/21	\$ 7.00	Processing Fee
07/19/21	\$ 50.00	NRSC
07/19/21	\$ 50.00	Mitch McConnell
07/19/21	\$ 50.00	Marsh for Senate
07/19/21	\$ 50.00	Marco Rubio for
07/19/21	\$ 50.00	John Kennedy for US
07/19/21	\$ 50.00	John Cornyn
07/19/21	\$ 50.00	Friends of Mik
07/19/21	\$ 50.00	Friends of Jim

07/19/21	\$ 50.00	Deb Fischer for
07/19/21	\$ 50.00	Cindy Hyde-SMI
07/19/21	\$ 50.00	Bill Cassidy for
07/21/21	\$ 100.00	GOP.com
07/21/21	\$ 50.00	GOP.com
07/21/21	\$ 50.00	GOP.com
07/21/21	\$ 45.00	GOP.com
07/21/21	\$ 45.00	GOP.com
07/21/21	\$ 22.50	GOP.com
07/21/21	\$ 22.50	GOP.com
07/21/21	\$ 2.25	GOP.com
07/22/21	\$ 10.00	Rick Scott for
07/22/21	\$ 100.00	Monica for
07/22/21	\$ 100.00	Cicely Dav
07/22/21	\$ 100.00	Cicely Dav
07/23/21	\$ 100.00	Save America
07/23/21	\$ 100.00	Save America
07/23/21	\$ 50.00	Save America
07/23/21	\$ 50.00	Save America
07/23/21	\$ 50.00	Save America
07/25/21	\$ 100.00	Save America
07/25/21	\$ 100.00	Save America
07/25/21	\$ 100.00	Save America
07/25/21	\$ 50.00	Save America
07/25/21	\$ 50.00	Save America
07/25/21	\$ 50.00	Save America
07/31/21	\$ 100.00	GOP.com
07/31/21	\$ 35.00	Tim Scott for
08/02/21	\$ 100.00	NRSC
08/02/21	\$ 50.00	NRSC
08/02/21	\$ 50.00	NRSC
08/02/21	\$ 50.00	NRSC
08/02/21	\$ 50.00	NRSC
08/02/21	\$ 45.00	NRSC
08/02/21	\$ 25.00	NRSC
08/02/21	\$ 25.00	NRSC
08/02/21	\$ 25.00	NRSC
08/02/21	\$ 25.00	NRSC
08/02/21	\$ 25.00	NRSC
08/02/21	\$ 25.00	Marco Rubio for
08/02/21	\$ 25.00	Carey for
08/12/21	\$ 5.00	Monica for
08/12/21	\$ 5.00	Monica for
08/14/21	\$ 25.00	GOP.com
08/14/21	\$ 25.00	Wicker for Senate
08/14/21	\$ 25.00	Tuberville for

08/14/21	\$ 25.00	Todd Young
08/14/21	\$ 25.00	Ted Cruz
08/14/21	\$ 25.00	Team Graham
08/14/21	\$ 25.00	Steve Daines
08/14/21	\$ 50.00	Save America
08/14/21	\$ 50.00	Save America
08/14/21	\$ 50.00	Save America
08/14/21	\$ 50.00	Ron Johnson for
08/14/21	\$ 25.00	Rand Paul
08/14/21	\$ 25.00	NRSC
08/14/21	\$ 50.00	Moran for
08/14/21	\$ 50.00	Mitch McConnell
08/14/21	\$ 30.00	Mitch McConnell
08/14/21	\$ 30.00	Mitch McConnell
08/14/21	\$ 20.00	Mitch McConnell
08/14/21	\$ 10.00	Mitch McConnell
08/14/21	\$ 25.00	Mike Rounds for
08/14/21	\$ 10.00	Mast for Congress
08/14/21	\$ 25.00	Marco Rubio for
08/14/21	\$ 25.00	Lisa Murkowski
08/14/21	\$ 50.00	Lankford
08/14/21	\$ 25.00	Kansans for
08/14/21	\$ 25.00	Joni for
08/14/21	\$ 50.00	Grassley Committee
08/14/21	\$ 50.00	Friends of Mik
08/14/21	\$ 25.00	Friends of John
08/14/21	\$ 25.00	Friends of John
08/14/21	\$ 25.00	Capito for Wes
08/14/21	\$ 100.00	Burgess for Utah
08/15/21	\$ 50.00	NRSC
08/16/21	\$ 50.00	Tom Cotton 4 Senate
08/16/21	\$ 50.00	Todd Young
08/16/21	\$ 25.00	Todd Young
08/16/21	\$ 75.00	Tim Scott for
08/16/21	\$ 50.00	Team Haggerty
08/16/21	\$ 75.00	Team Graham
08/16/21	\$ 50.00	Ron Johnson for
08/16/21	\$ 75.00	Rick Scott for
08/16/21	\$ 50.00	Rand Paul
08/16/21	\$ 100.00	NRSC
08/16/21	\$ 100.00	NRSC
08/16/21	\$ 100.00	NRSC
08/16/21	\$ 100.00	NRSC
08/16/21	\$ 100.00	NRSC
08/16/21	\$ 75.00	NRSC
08/16/21	\$ 50.00	NRSC

08/16/21	\$ 50.00	NRSC
08/16/21	\$ 45.00	NRSC
08/16/21	\$ 45.00	NRSC
08/16/21	\$ 35.00	NRSC
08/16/21	\$ 35.00	NRSC
08/16/21	\$ 35.00	NRSC
08/16/21	\$ 35.00	NRSC
08/16/21	\$ 35.00	NRSC
08/16/21	\$ 35.00	NRSC
08/16/21	\$ 35.00	NRSC
08/16/21	\$ 25.00	NRSC
08/16/21	\$ 25.00	NRSC
08/16/21	\$ 25.00	NRSC
08/16/21	\$ 25.00	NRSC
08/16/21	\$ 25.00	NRSC
08/16/21	\$ 25.00	NRSC
08/16/21	\$ 25.00	NRSC
08/16/21	\$ 25.00	NRSC
08/16/21	\$ 25.00	NRSC
08/16/21	\$ 25.00	NRSC
08/16/21	\$ 75.00	Mitch McConnell
08/16/21	\$ 75.00	Mitch McConnell
08/16/21	\$ 25.00	Mike Crapo
08/16/21	\$ 75.00	Marco Rubio for
08/16/21	\$ 50.00	Marco Rubio for
08/16/21	\$ 75.00	Lisa Murkowski
08/16/21	\$ 75.00	Lankford
08/16/21	\$ 50.00	Kansans for
08/16/21	\$ 50.00	Josh Hawley for
08/16/21	\$ 75.00	Joni for Iowa
08/16/21	\$ 50.00	John Kennedy for
08/16/21	\$ 75.00	Friends of Mik
08/16/21	\$ 75.00	Friends of Mik
08/16/21	\$ 50.00	Friends of John
08/16/21	\$ 25.00	Friends of Jim
08/16/21	\$ 25.00	Deb Fischer for
08/16/21	\$ 75.00	Capito for Wes
08/16/21	\$ 25.00	Boozman for
08/16/21	\$ 50.00	Blackburn Tenn
08/22/21	\$ 75.00	Rick Scott for
09/02/21	\$ 50.00	Friends of Roy

25. Upon information and belief, Defendant hounded and induced Mrs. B to make contributions in similar amounts and frequency for all time periods from August 13, 2019 to the

present.

26. Upon information and belief, Defendant made multiple credit charges as shown above, on individual dates for the purpose of increasing credit card fees and other charges to Mrs. B and the Living Trust, which had the result of increasing revenues to Defendant.

27. Plaintiffs are in the process of obtaining electronic and telephone records to confirm the exact number of contacts and communications Defendant and its telemarketers made to Mrs. B. Upon information and belief, however, the contacts and communications took place every few days, and sometimes Defendant would contact Mrs. B multiple times in a single day. As part of these contacts and communications—all of which were initiated by Defendant—its telemarketers and representatives induced Mrs. B to make contributions to and for the benefit of Defendant and its business activities.

28. When Mr. Labertew became aware of the charges being made by Defendant to Mrs. B's credit card accounts, he notified Defendant on June 21, 2021 to cease and desist from making further contacts to Mrs. B and to desist from making further charges to the credit card accounts of Mrs. B and the Living Trust. (See Exhibit A hereto.)

29. Mr. Labertew again notified Defendant on June 23, 2021 to cease and desist from making further contacts to Mrs. B and to desist from making further charges to the credit card accounts of Mrs. B and the Living Trust. (See Exhibit B hereto.)

30. About a month later, Defendant, through its attorneys, finally acknowledged and confirmed that “[a]s of July 16, 2021, all of Ms. B's recurring contributions have been cancelled, and her account has been closed.” (See Exhibit C hereto.)

31. Defendant's representation to Mr. Labertew was false. Notwithstanding Defendant's representations and agreement to cancel the recurring charges and close Mrs. B's

account, as contained in Exhibit C, Defendant continued to charge Mrs. B and the Living Trust for contributions, fees and upsell charges after July 16, 2021, leading to this lawsuit.

32. The exploitation of an elderly, vulnerable adult like Mrs. B by Defendant has caused, and—unless abated immediately—will continue to cause, irreparable harm and injury to Mr. B’s personal dignity, respect, independence, and honor.

33. Plaintiffs are informed and reasonably believe that without immediate judicial intervention, Defendant will continue its campaign of harassment, manipulation, deception and exploitation of Mrs. B as evidenced by the dates and amounts set forth above, and that immediate and irreparable injury, loss and damage will result to Mrs. B and the Living Trust without immediate judicial intervention.

FIRST CLAIM FOR RELIEF
(Theft)

34. Plaintiffs incorporate the preceding allegations of this Complaint as though fully set forth here.

35. Defendant had no legal right to make charges to Plaintiffs’ credit cards at any time due to the exploitative and manipulative actions and conduct described herein.

36. Defendant acknowledged it possessed no legal right to make charges to Plaintiffs’ credit card accounts in Exhibit C.

37. In spite of possessing no legal right to make charges to Plaintiffs’ credit cards, Defendant made numerous charges to Plaintiffs credit card accounts as described hereinabove after July 16, 2021.

38. Defendant’s actions in making unauthorized charges to Plaintiffs’ credit card accounts, were made without legal basis, justification, or excuse. Moreover, all such charges are prohibited by 15 U.S.C. § 1644.

39. Defendant's actions in making unauthorized charges to Plaintiffs' credit card accounts, amount to theft pursuant to Utah Code § 76-6-404, theft by deception pursuant to Utah Code § 76-6-405, and theft by disposition pursuant to Utah Code § 76-6-408 (2).

40. Defendant's actions, as described herein, entitle Plaintiff to "three times the amount of actual damages" and "for costs of suit and reasonable attorney fees" pursuant to Utah Code § 76-6-412 (2).

41. Plaintiffs suffered damages as a result of Defendant's theft, which damages shall be shown at trial, but are not less than \$75,000.00.

SECOND CLAIM FOR RELIEF
(Conversion)

42. Plaintiffs incorporate the preceding allegations of this Complaint as though fully set forth here.

43. Defendant willfully interfered with Plaintiffs' property and credit cards, obtaining money from Plaintiffs to which Defendant was not lawfully entitled.

44. Defendant had no lawful justification to interfere with or obtain money from Plaintiffs' credit card accounts, at all times relevant, and particularly after July 16, 2021.

45. Defendant deprived Plaintiffs of the use and possession of their money and credit as described herein.

46. Plaintiffs suffered damages as a result of Defendant's conversion, which damages shall be shown at trial, but are not less than \$75,000.00.

THIRD CLAIM FOR RELIEF
(Exploitation of a Vulnerable Adult)

47. Plaintiffs incorporate the preceding allegations of this Complaint as though fully set forth here.

48. Defendant had no legal right to make charges to Plaintiffs' credit cards at any time due to the exploitative and manipulative actions and conduct described herein.

49. Defendant manipulated and exploited Mrs. B, as defined by Utah Code § 62A-3-301(30) and possesses a private right of action under Utah Code § 62A-3-314 (1).

50. Plaintiffs suffered harm or financial loss as a result of the exploitation of Mrs. B by Defendant.

51. Defendant's exploitation of a vulnerable adult, as described herein, entitle Plaintiff to recover all damages together with "costs and reasonable attorney fees" pursuant to Utah Code § 62A-3-314 (2).

52. Defendant's exploitation of Mrs. B caused damages to Plaintiffs in amounts to be shown at trial, but which are not less than \$75,000.00.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for the following relief against Defendant:

A. Special damages, including all amounts paid by Plaintiffs to Defendant since August 13, 2019 in amounts to be determined at trial, but not less than \$75,000.00;

B. Three times the amount of actual damages sustained by Plaintiffs pursuant to Utah Code § 76-6-412 (2);

C. General damages, including all consequential damages, costs, and fees incurred to uncover and determine the extent of the wrongful acts of Defendant, all in amounts to be determined at trial;

D. Punitive or exemplary damages for Defendant's conversion in an amount sufficient to deter future conduct and to punish Defendant for its

egregious, wanton and willful misconduct here;

E. Plaintiffs' attorney fees and costs of court;

F. Such other and further relief as the Court deems just in the premises.

JURY DEMAND

Pursuant to Rule 38(b), F.R.Civ. P., Plaintiffs demand a trial by jury in this case and submit herewith the applicable fee.

DATED this 23rd day of September, 2021.

CARR & WADDOUPS

/s/ Trent J. Waddoups
TRENT J. WADDOUPS
Attorneys for Plaintiffs

VERIFICATION

I, Michael L. Labertew, declare under penalty of perjury that the following statements are true and correct:

1. I have read the foregoing Complaint and I understand the allegations and claims made therein;
2. I am personally familiar with, and have personal knowledge of, the factual allegations contained in the Complaint specifically as they pertain to P. B, including Mrs. B's physical and mental condition, the monies that have been exploited and obtained from Mrs. B by Defendants, and including the amounts and dates set forth in the Complaint;
3. I am an attorney licensed to practice law in the State of Utah since 1989; and
4. The factual allegations contained in the Complaint are true and correct.

STATE OF UTAH)
) §
COUNTY OF SUMMIT)

I HEREBY DECLARE under criminal penalty authorized by the laws of the State of Utah and the United States that the foregoing is true and correct pursuant to UTAH CODE ANN. § 78B-18a-101 et seq. and 28 U.S.C. § 1746.

VERIFIED AND SUBMITTED this 23rd day of September 2021.

/s/ Michael L. Labertew

MICHAEL L. LABERTEW